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*Attorneys for Plaintiff
Chrome Hearts, LLC*

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CHROME HEARTS, LLC, a Delaware
Limited Liability Company,

Plaintiff,

vs.

BOUTIQUE TALULAH, an unknown
business entity; and DOES 1-10,
inclusive,

Defendants.

) CASE NO.

COMPLAINT FOR DAMAGES:

- 1. TRADEMARK INFRINGEMENT**
- 2. FEDERAL TRADEMARK DILUTION**
- 3. DILUTION UNDER NEVADA LAW [N.R.S. § 600.435]**
- 4. FEDERAL UNFAIR COMPETITION**
- 5. UNFAIR COMPETITION UNDER NEVADA COMMON LAW**
- 6. COPYRIGHT INFRINGEMENT**

JURY TRIAL DEMANDED

1 Plaintiff Chrome Hearts, LLC for its claims against Defendant Boutique Talulah
2 respectfully alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. Plaintiff files this action against Defendant for trademark infringement,
5 trademark dilution under the Lanham Trademark Act of 1946, 15 U.S.C. §1051 et seq.
6 (the “Lanham Act”), and related claims of unfair competition and trademark dilution
7 under the statutory and common law of the State of Nevada. This Court has subject
8 matter jurisdiction over the Federal trademark counterfeiting and infringement and
9 trademark dilution claims under 28 U.S.C. §§1121(a), 1331, 1338(a) and 1367.

10 2. This Court has personal jurisdiction over Defendant because Defendant is
11 incorporated and/or does business within this judicial district.

12 3. This action arises out of wrongful acts, including advertising, offering for
13 sale, selling and distributing products by Defendant within this judicial district. Venue
14 is proper in this district pursuant to 28 U.S.C. §1391 because the claims asserted arise
15 in this judicial district.

16 **THE PARTIES**

17 4. Plaintiff Chrome Hearts, LLC is a limited liability company organized
18 and existing under the laws of the state of California, with an office and principal place
19 of business at 915 North Mansfield Avenue, Los Angeles, California 90038.

20 5. Upon information and belief, Defendant Boutique Talulah is an unknown
21 business entity with an office and principal place of business at 3200 Las Vegas
22 Boulevard, Suite 1145, Las Vegas, Nevada 89109.

23 6. Plaintiff is unaware of the names and true capacities of Defendants,
24 whether individual, corporate and/or partnership entities, named herein as DOES 1
25 through 10, inclusive, and therefore sues them by their fictitious names. Plaintiff will
26 seek leave to amend this complaint when their true names and capacities are
27 ascertained. Plaintiff is informed and believes and based thereon alleges that said
28 Defendant and DOES 1 through 10, inclusive, are in some manner responsible for the

1 wrongs alleged herein, and that at all times referenced each was the agent and servant
2 of the other Defendant and was acting within the course and scope of said agency and
3 employment.

4 7. Plaintiff is informed and believes, and based thereon alleges, that at all
5 relevant times herein, Defendant and DOES 1 through 10, inclusive, knew or
6 reasonably should have known of the acts and behavior alleged herein and the damages
7 caused thereby, and by their inaction ratified and encouraged such acts and behavior.
8 Plaintiff further alleges that Defendant and DOES 1 through 10, inclusive, have a non-
9 delegable duty to prevent or cause such acts and the behavior described herein, which
10 duty Defendant and DOES 1 though 10, inclusive, failed and/or refused to perform.

11 NATURE OF ACTION

12 8. Plaintiff seeks injunctive relief, damages and a declaratory judgment
13 based upon Defendant's unfair competition with Plaintiff arising from Defendant's
14 willful infringement and dilution of Plaintiff's trademarks and copyrighted works.
15 Defendant's willful infringement has impacted both upon Plaintiff's rights directly as
16 well as Plaintiff's ability to maintain consumer satisfaction. In this regard, it is
17 noteworthy that most, if not all, of the infringing items below were presented in a
18 confusingly deceptive manner in such a way that the implication to the buying public
19 is that these items are, indeed, genuine.

20 ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

21 **A. Chrome Hearts and its Famous Plus Mark**

22 9. Plaintiff Chrome Hearts, LLC ("Chrome Hearts") has been designing,
23 manufacturing, and selling artistically styled leather goods, apparel, jewelry, and
24 accessories since 1989.

25 10. Chrome Hearts sells a wide variety of quality artistic products, including
26 leather pants, leather jackets, leather vests, sterling silver jewelry, including necklaces,
27 bracelets, rings and wallet chains, belt buckles and a wide collection of other products,
28 including its recent line of custom, one-of-a-kind furniture.

1 11. Chrome Hearts pioneered the idea of combining the look of rugged
2 apparel with fashion attire to make fashion apparel and accessories. All of Chrome
3 Hearts' leather products are adorned with sterling silver hardware, including all of the
4 buttons and ornamental pieces. Chrome Hearts further pioneered the look of suede
5 inlay designs in connection with leather clothing.

6 12. Entertainers, such as Cher, Billy Idol, Aerosmith, Lenny Kravitz, Guns N'
7 Roses, Seal, Madonna, Keith Richards, Danny Glover, Sting, Gloria Estefan, Christy
8 Turlington, Naomi Campbell and Sharon Stone can all be seen in Chrome Hearts'
9 fashions. Chrome Hearts products are sold in the exclusive CHROME HEARTS
10 stores throughout the world and in select specialty stores, such as Browns of London
11 and the United Arrows and Intellectual Galleries boutiques in Japan.

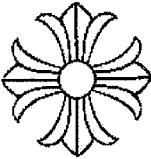
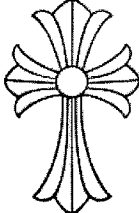
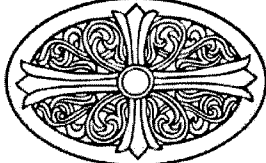
12 13. In 1993, the Council of Fashion Designers of America ("CFDA")
13 presented Plaintiff Chrome Hearts with an unsolicited award as designer of the year for
14 its innovated accessories and jewelry designs.

15 14. Most of Chrome Hearts products, including its jewelry, leather goods, and
16 furniture, are handmade in Los Angeles by Chrome Hearts' craftsmen. The level of
17 expert workmanship exercised by these individuals is superior and conforms with the
18 strict standards established by Chrome Hearts.

19 15. Works designed by Chrome Hearts have been praised and recognized in
20 numerous articles appearing in both trade publications and publications directed to the
21 general public around the world, including articles in the United States, Germany,
22 Japan and France. These articles have acclaimed the high artistry, fashion and style of
23 Chrome Hearts' designs and the uniqueness of the designs.

24 16. Chrome Hearts is the owner of the word/mark "CHROME HEARTS" and
25 various composite trademarks comprising the Chrome Hearts mark and assorted design
26 components (hereinafter collectively the "Chrome Hearts Marks").

27 17. Chrome Hearts' most iconic and well recognized trademarks include, but
28 are not limited to, the following trademark registrations:

| Mark | U.S. Registration No(s). | Goods/Services |
|--|--------------------------|---|
|  CH Plus Mark | 3,385,449 | Jewelry, namely, bracelets, rings, watch bands, necklaces and lighters made of precious metals |
|  CH Cross Mark | 3,605,860 | Jewelry, namely, rings, earrings, pendants, necklaces, bracelets, cuff bracelets, cuff links, watch bracelets and key rings made of precious metals |
|  Classic Oval Mark | 3,784,782 | Hair accessories, namely, hair clips, barrettes, hair bands, buttons, hair pins and ribbons |

18. Registrations for the Chrome Hearts Marks are valid, subsisting and are incontestable. Through longstanding use, advertising, and registration, the Chrome Hearts Marks have achieved a high degree of consumer recognition and constitute famous marks.

19. Chrome Hearts has continuously used the Chrome Hearts Marks in interstate commerce in connection with the sale, distribution, promotion, and advertising of its goods since their respective dates for first use.

20. The Chrome Hearts Marks have come to identify, in the United States and throughout the world, high quality leather fashions, jewelry and accessories designed and manufactured by Chrome Hearts.

21. Due to Chrome Hearts' long use, extensive sales, and significant advertising and promotional activities, the Chrome Hearts Marks have achieved widespread acceptance and recognition among the consuming public and trade throughout the United States.

1 source as Plaintiff's goods and are of the same quality as that assured by Chrome
2 Hearts' Marks.

3 30. Defendant's use of Plaintiff's trademarks is without Plaintiff's permission
4 or authority and in total disregard of Plaintiff's rights to control its trademarks.

5 31. Defendant's activities are likely to lead to and result in confusion, mistake
6 or deception, and are likely to cause the public to believe that Plaintiff has produced,
7 sponsored, authorized, licensed or is otherwise connected or affiliated with
8 Defendant's commercial and business activities, all to the detriment of Plaintiff.

9 32. Upon information and belief, Defendant's acts are deliberate and intended
10 to confuse the public as to the source of Defendant's goods or services and to injure
11 Plaintiff and reap the benefit of Plaintiff's goodwill associated with Plaintiff's
12 trademarks.

13 33. Defendant's acts violate the Lanham Act.

14 34. As a direct and proximate result of Defendant's willful and unlawful
15 conduct, Plaintiff has been injured and will continue to suffer injury to its business and
16 reputation unless Defendant is restrained by this Court from infringing Plaintiff's
17 trademarks.

18 35. Plaintiff has no adequate remedy at law.

19 36. In light of the foregoing, Plaintiff is entitled to injunctive relief prohibiting
20 Defendant from using the Chrome Hearts Marks, or any marks identical and/or
21 confusingly similar thereto, for any purpose, and to recover from Defendant all
22 damages, including attorneys' fees, that Plaintiff has sustained and will sustain as a
23 result of such infringing acts, and all gains, profits and advantages obtained by
24 Defendant as a result thereof, in an amount not yet known, as well as the costs of this
25 action pursuant to 15 U.S.C. § 1117(a), attorneys' fees and treble damages pursuant to
26 15 U.S.C. § 1117(b), and/or statutory damages pursuant to 15 U.S.C § 1117(c).

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1 **SECOND CLAIM FOR RELIEF**

2 **(Trademark Dilution in Violation of Lanham Act)**

3 37. Plaintiff incorporates herein by reference the averments of the preceding
4 paragraphs as though fully set forth herein.

5 38. Plaintiff's Chrome Hearts Marks are "famous" within the meaning of the
6 Lanham Act.

7 39. Defendant has used in commerce in connection with the sale of their
8 products counterfeit reproductions of the Chrome Hearts Marks, which is likely to
9 cause, and most likely has caused, confusion or mistake as to the affiliation,
10 connection, or association between Defendant and Plaintiff, or as to the origin,
11 sponsorship, or approval of said counterfeit goods by Plaintiff.

12 40. Defendant's acts described above have diluted and continue to dilute
13 Plaintiff's unique and distinctive trademarks. These acts violate the Lanham Act, have
14 injured and, unless immediately restrained, will continue to injure Plaintiff, causing
15 damage to Plaintiff in an amount to be determined at trial, as well as irreparable injury
16 to Plaintiff's goodwill and reputation associated with the value of Plaintiff's
17 trademarks.

18 41. Upon information and belief, Defendant's unlawful actions began long
19 after Plaintiff's Chrome Hearts Marks became famous.

20 42. Upon information and belief, Defendant acted knowingly, deliberately and
21 willfully with the intent to trade on Plaintiff's reputation and to dilute Plaintiff's
22 Chrome Hearts Marks. Defendant's conduct is willful, wanton and egregious.

23 43. Plaintiff has no adequate remedy at law to compensate it fully for the
24 damages that have been caused and which will continue to be caused by Defendant's
25 unlawful acts, unless they are enjoined by this Court.

26 44. In light of the foregoing, Plaintiff is entitled to injunctive relief prohibiting
27 Defendant from using the Chrome Hearts Marks, or any marks/designs identical and/or
28 confusingly similar thereto and to recover all damages, including attorneys' fees, that

1 Plaintiff has sustained and will sustain, and all gains, profits and advantages obtained
2 by Defendant as a result of their infringing acts alleged above in an amount not yet
3 known, and the costs of this action.

4 **THIRD CLAIM FOR RELIEF**

5 **(Dilution Under Nevada State Law – N.R.S. § 600.435)**

6 45. Plaintiff incorporates herein by reference the averments of the preceding
7 paragraphs as though fully set forth herein.

8 46. Plaintiff's Chrome Hearts Marks are distinctive in the state of Nevada by
9 virtue of their substantial inherent and acquired distinctiveness, extensive use in the
10 state of Nevada and the extensive advertising and wide spread publicity of the marks in
11 the state of Nevada.

12 47. As a result of the substantial inherent and acquired distinctiveness of the
13 Chrome Hearts Marks, their extensive use, and the extensive advertising and publicity
14 of said marks/designs, they have become strong and are widely renowned throughout
15 the United States, including Nevada.

16 48. Defendant's unauthorized use of the Chrome Hearts Marks has caused and
17 will likely continue to cause confusion in the relevant consumer market.

18 49. Defendant's unauthorized use of Plaintiff's Chrome Hearts Marks on its
19 merchandise in interstate commerce and advertising relating to same constitutes false
20 designation of origin and a false representation that the goods are manufactured,
21 offered, sponsored, authorized, licensed by or otherwise connected with Plaintiff or
22 come from the same source as Plaintiff's goods when, in fact, they do not.

23 50. The actions of Defendant complained of herein are likely to injure the
24 business reputation and dilute the distinctive quality of the Chrome Hearts Marks,
25 which is famous.

26 51. The foregoing acts of Defendant constitute dilution and injury to business
27 reputation in violation of Section 600.435 of the Nevada Revised Statute.

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1 sponsored, authorized, licensed or is otherwise connected or affiliated with
2 Defendant's commercial and business activities, all to the detriment of Plaintiff.

3 60. The aforesaid acts constitute Federal Unfair Competition in violation
4 of Title 15 U.S.C. § 1125(a).

5 61. Plaintiff has no adequate remedy at law.

6 62. In light of the foregoing, Plaintiff is entitled to injunctive relief prohibiting
7 Defendant from using Plaintiff's Chrome Hearts Marks, or any marks/designs identical
8 and/or confusingly similar thereto, and to recover all damages, including attorneys'
9 fees, that Plaintiff has sustained and will sustain, and all gains, profits and advantages
10 obtained by Defendant as a result of their infringing acts alleged above in an amount
11 not yet known, and the costs of this action.

12 **FIFTH CLAIM FOR RELIEF**

13 **(Common Law Unfair Competition)**

14 63. Plaintiff incorporates herein by reference the averments of the preceding
15 paragraphs as though fully set forth herein.

16 64. Plaintiff owns and enjoys common law rights in Nevada and throughout
17 the United States to the Chrome Hearts Marks.

18 65. Defendant's unlawful acts in appropriating rights in Plaintiff's common
19 law trademarks were intended to capitalize on Plaintiff's goodwill for Defendant's own
20 pecuniary gain. Plaintiff has expended substantial time, resources and effort to obtain
21 an excellent reputation for itself and its family of Marks. As a result of Plaintiff's
22 efforts, Defendant is now unjustly enriched and are benefiting from property rights that
23 rightfully belong to Plaintiff.

24 66. Defendant's unauthorized use of Plaintiff's Chrome Hearts Marks has
25 caused and is likely to cause confusion as to the source of Defendant's products, all to
26 the detriment of Plaintiff.

27 67. Defendant's acts are willful, deliberate, and intended to confuse the public
28 and to injure Plaintiff.

1 76. Given the widespread popularity of its Copyrighted Works, Defendant had
2 access to the work and upon information and belief Defendant has knowingly infringed
3 upon it by manufacturing, distributing and selling products bearing marks which are
4 substantially similar to Chrome Hearts' Copyrighted Works, in violation of 17 U.S.C.
5 § 501.

6 77. Upon information and belief, Defendant has intentionally, knowingly and
7 willfully copied Chrome Hearts' Copyrighted Works to benefit from the widespread
8 customer recognition and acceptance of them and to capitalize upon the market created
9 by Plaintiff Chrome Hearts for its designs.

10 78. Upon information and belief, the aforesaid infringement by Defendant of
11 Plaintiff Chrome Hearts' Copyrighted Works was and continues to be with the
12 knowledge that such designs are copyrighted and the Defendant, in doing the acts
13 complained of herein, have willfully infringed upon Chrome Hearts' rights under the
14 Copyright Laws of the United States, Title 17 U.S.C. § 101, et seq.

15 79. Defendant's infringement of Chrome Hearts' Copyrighted Works is to the
16 great and irreparable damage of Plaintiff, and Plaintiff is informed and believes, as
17 indicated, that Defendant will continue such infringement unless enjoined by this
18 Court.

19 80. Plaintiff has no adequate remedy at law.

20 81. In light of the foregoing, Plaintiff is entitled to injunctive relief prohibiting
21 Defendant from using Chrome Hearts' Copyrighted Works or any designs identical
22 and/or substantially similar thereto for any purpose, and to recover from Defendant all
23 damages, including attorneys' fees, that Plaintiff has sustained and will sustain as a
24 result of such infringing acts, and all gains, profits and advantages obtained by
25 Defendant as a result thereof, in an amount not yet known, as well as the costs of this
26 action pursuant to 17 U.S.C. § 504(b), or in the alternative statutory damages pursuant
27 to 17 U.S.C. § 504(c), and/or any additional damages pursuant to 17 U.S.C. § 504(d).

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1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, Plaintiff Chrome Hearts, LLC respectfully prays that this
3 Court enter judgment in its favor and against Defendant as follows:

4 A. Granting temporary, preliminary and permanent injunctive relief
5 restraining Defendant, their agents, servants, employees, officers, associates, attorneys,
6 and all persons acting by, through, or in concert with any of them, from:

7 (1) Manufacturing, producing, importing, exporting, advertising,
8 marketing, promoting, supplying, distributing, offering for sale, or selling any products
9 which bear the Chrome Hearts Marks, or any marks identical, substantially
10 indistinguishable, and/or confusingly similar thereto;

11 (2) Manufacturing, producing, importing, exporting, advertising,
12 marketing, promoting, supplying, distributing, offering for sale, or selling any products
13 which bear Chrome Hearts' Copyrighted Works, or any designs identical and/or
14 substantially similar thereto;

15 (3) Committing any other acts which falsely represents or which has
16 the effect of falsely representing that the goods and services of Defendant is licensed
17 by, authorized by, offered by, produced by, sponsored by, or in any other way
18 associated with Plaintiff;

19 (4) Otherwise diluting Chrome Hearts' federally registered trademarks
20 and/or copyrighted works;

21 (5) Unfairly competing with Plaintiff.

22 B. Ordering Defendant to recall from any distributors and retailers and to
23 deliver to Chrome Hearts and/or its counsel for destruction or other disposition all
24 remaining inventory of all infringing products, including all advertisements,
25 promotional and marketing materials therefore, as well as means of making same;

26 C. Ordering Defendant to file with this Court and serve on Plaintiff within
27 thirty (30) days after entry of the injunction a report in writing, under oath setting forth
28 in detail the manner and form in which Defendants have complied with the injunction;

1 D. Awarding actual damages suffered by Plaintiff as a result of Defendant's
2 acts;

3 E. Ordering an accounting by Defendant of all gains, profits and advantages
4 derived from their wrongful acts;

5 F. Awarding Plaintiff all of Defendant's profits and all damages sustained by
6 Plaintiff as a result of Defendant's wrongful acts, and such other compensatory
7 damages as the Court determines to be fair and appropriate pursuant to 15 U.S.C.
8 § 1117(a) and 17 U.S.C. § 504(b);

9 G. Awarding treble damages in the amount of Defendant's profits or
10 Plaintiff's damages, whichever is greater, for willful infringement pursuant to 15
11 U.S.C. § 1117(b);

12 H. Awarding applicable interest, costs, disbursements and attorneys' fees,
13 pursuant to 15 U.S.C. § 1117(b) and 17 U.S.C. § 505;


14 I. Awarding Plaintiff statutory damages pursuant to 15 U.S.C. §1117(c) and
15 17 U.S.C. § 504(c);

16 J. Awarding Plaintiff punitive damages in connection with its claims under
17 Nevada law; and

18 K. Awarding Plaintiff such other and further relief as the Court deems just
19 and proper.
20

21 Dated: February 21, 2012

MEYERS McCONNELL REISZ SIDERMAN

22
23 By: 
24 Lori E. Siderman
25 *Attorneys for Plaintiff*
26 *Chrome Hearts, LLC*
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DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury as to all claims in this litigation.

Dated: February 21, 2012

MEYERS McCONNELL REISZ SIDERMAN

By: 
Lori E. Sideman
Attorneys for Plaintiff
Chrome Hearts, LLC